

**ASSEMBLY BILL**

**No. 2276**

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**Introduced by Assembly Member Fletcher**

February 18, 2010

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An act to amend Section 457.1 of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

AB 2276, as introduced, Fletcher. Arson.

Existing law requires a convicted arsonist, as specified, to register with certain local officials in the area in which he or she resides, and makes it a misdemeanor to fail to register. Existing law also requires the registering law enforcement agency to forward certain information about the person to the Department of Justice, including a signed statement, and the person's fingerprints and photograph. Under existing law, those statements, photographs, and fingerprints are not open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

This bill would require the Department of Justice to make all of these statements, photographs, and fingerprints available to all chief fire officials of legally organized fire departments or fire protection districts in the state.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 457.1 of the Penal Code is amended to  
2     read:

1 457.1. (a) As used in this section, “arson” means a violation  
2 of Section 451, 451.5, or 453, and attempted arson, which includes,  
3 but is not limited to, a violation of Section 455.

4 (b) (1) Every person described in ~~paragraph~~ *paragraphs* (2),  
5 (3), and (4), for the periods specified therein, shall, while residing  
6 in, or if the person has no residence, while located in California,  
7 be required to, within 14 days of coming into, or changing the  
8 person’s residence or location within any city, county, city and  
9 county, or campus wherein the person temporarily resides, or if  
10 the person has no residence, is located:

11 (A) Register with the chief of police of the city where the person  
12 is residing, or if the person has no residence, where the person is  
13 located.

14 (B) Register with the sheriff of the county where the person is  
15 residing, or if the person has no residence, where the person is  
16 located in an unincorporated area or city that has no police  
17 department.

18 (C) In addition to *subparagraph* (A) or (B) above, register with  
19 the chief of police of a campus of the University of California, the  
20 California State University, or community college where the person  
21 is residing, or if the person has no residence, where the person is  
22 located upon the campus or any of its facilities.

23 (2) Any person who, on or after November 30, 1994, is  
24 convicted in any court in this state of arson or attempted arson  
25 shall be required to register, in accordance with the provisions of  
26 this section, for the rest of his or her life.

27 (3) Any person who, having committed the offense of arson or  
28 attempted arson, and after having been adjudicated a ward of the  
29 juvenile court on or after January 1, 1993, is discharged or paroled  
30 from the Department of ~~the Youth Authority~~ *Corrections and*  
31 *Rehabilitation, Division of Juvenile Facilities* shall be required to  
32 register, in accordance with the provisions of this section, until  
33 that person attains the age of 25 years, or until the person has his  
34 or her records sealed pursuant to Section 781 of the Welfare and  
35 Institutions Code, whichever comes first.

36 (4) Any person convicted of the offense of arson or attempted  
37 arson on or after January 1, 1985, through November 29, 1994,  
38 inclusive, in any court of this state, shall be required to register,  
39 in accordance with the provisions of this section, for a period of  
40 five years commencing, in the case where the person was confined

for the offense, from the date of their release from confinement, or in the case where the person was not confined for the offense, from the date of sentencing or discharge, if that person was ordered by the court at the time that person was sentenced to register as an arson offender. The law enforcement agencies shall make registration information available to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person resides.

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other penal institution, or from the Department of ~~the Youth Authority~~ *Corrections and Rehabilitation, Division of Juvenile Facilities* where he or she was confined because of the commission or attempted commission of arson, shall, prior to the discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign the form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; one copy to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall be transmitted in time so as to be received by the local law enforcement agency and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(d) All records relating specifically to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the

1 person required to register under this subdivision for offenses  
2 adjudicated by a juvenile court attains the age of 25 years or has  
3 his or her records sealed under the procedures set forth in Section  
4 781 of the Welfare and Institutions Code, whichever event occurs  
5 first. This subdivision shall not be construed to require the  
6 destruction of other criminal offender or juvenile records relating  
7 to the case that are maintained by the Department of Justice, law  
8 enforcement agencies, the juvenile court, or other agencies and  
9 public officials unless ordered by the court under Section 781 of  
10 the Welfare and Institutions Code.

11 (e) Any person who is required to register pursuant to this  
12 section who is released on probation or discharged upon payment  
13 of a fine shall, prior to the release or discharge, be informed of his  
14 or her duty to register under this section by the probation  
15 department of the county in which he or she has been convicted,  
16 and the probation officer shall require the person to read and sign  
17 the form as may be required by the Department of Justice, stating  
18 that the duty of the person to register under this section has been  
19 explained to him or her. The probation officer shall obtain the  
20 address where the person expects to reside upon his or her release  
21 or discharge and shall report within three days the address to the  
22 Department of Justice. The probation officer shall give one copy  
23 of the form to the person, and shall send one copy to the appropriate  
24 law enforcement agency having local jurisdiction where the person  
25 expects to reside upon his or her discharge or release, one copy to  
26 the prosecuting agency that prosecuted the person, one copy to the  
27 chief fire official of a legally organized fire department or fire  
28 protection district having local jurisdiction where the person  
29 expects to reside upon his or her discharge or release, and one copy  
30 to the Department of Justice. The probation officer shall also retain  
31 one copy.

32 (f) The registration shall consist of (1) a statement in writing  
33 signed by the person, giving the information as may be required  
34 by the Department of Justice, and (2) the fingerprints and  
35 photograph of the person. Within three days thereafter, the  
36 registering law enforcement agency shall electronically forward  
37 the statement, fingerprints, and photograph to the Department of  
38 Justice. *The Department of Justice shall make all of these*  
39 *statements, fingerprints, and photographs available to all chief*

1 *fire officials of legally organized fire departments or fire protection*  
2 *districts in the state.*

3 (g) If any person required to register by this section changes his  
4 or her residence address, he or she shall inform, in writing within  
5 10 days, the law enforcement agency with whom he or she last  
6 registered of his or her new address. The law enforcement agency  
7 shall, within three days after receipt of the information,  
8 electronically forward it to the Department of Justice. The  
9 Department of Justice shall forward appropriate registration data  
10 to the law enforcement agency having local jurisdiction of the new  
11 place of residence.

12 (h) Any person required to register under this section who  
13 violates any of the provisions thereof is guilty of a misdemeanor.  
14 Any person who has been convicted of arson or attempted arson  
15 and who is required to register under this section who willfully  
16 violates any of the provisions thereof is guilty of a misdemeanor  
17 and shall be sentenced to serve a term of not less than 90 days nor  
18 more than one year in a county jail. In no event does the court have  
19 the power to absolve a person who willfully violates this section  
20 from the obligation of spending at least 90 days of confinement  
21 in a county jail and of completing probation of at least one year.

22 (i) Whenever any person is released on parole or probation and  
23 is required to register under this section but fails to do so within  
24 the time prescribed, the Board of ~~Prison Terms~~ *Parole Hearings*,  
25 the Department of ~~the Youth Authority~~ *Corrections and*  
26 *Rehabilitation, Division of Juvenile Facilities*, or the court, as the  
27 case may be, shall order the parole or probation of that person  
28 revoked.

29 (j) The statements, photographs, and fingerprints required by  
30 this section shall not be open to inspection by the public or by any  
31 person other than a regularly employed peace officer or other law  
32 enforcement officer.

33 (k) In any case in which a person who would be required to  
34 register pursuant to this section is to be temporarily sent outside  
35 the institution where he or she is confined on any assignment within  
36 a city or county, including, but not limited to, firefighting or  
37 disaster control, the local law enforcement agency having  
38 jurisdiction over the place or places where that assignment shall  
39 occur shall be notified within a reasonable time prior to removal  
40 from the institution. This subdivision shall not apply to any person

1 temporarily released under guard from the institution where he or  
2 she is confined.

3 (l) Nothing in this section shall be construed to conflict with  
4 Section 1203.4 concerning termination of probation and release  
5 from penalties and disabilities of probation.

6 A person required to register under this section may initiate a  
7 proceeding under Chapter 3.5 (commencing with Section 4852.01)  
8 of Title 6 of Part 3 and, upon obtaining a certificate of  
9 rehabilitation, shall be relieved of any further duty to register under  
10 this section. This certificate shall not relieve the petitioner of the  
11 duty to register under this section for any offense subject to this  
12 section of which he or she is convicted in the future.

13 Any person who is required to register under this section due to  
14 a misdemeanor conviction shall be relieved of the requirement to  
15 register if that person is granted relief pursuant to Section 1203.4.